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COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: June 29, 2012
FILE NO:

OFFICE CORRESPONDENCE

FROM: MICHAEL J. ROTHANS, COMMANDER
FIELD OPERATIONS REGION III

TO: JOHN H. CLARK, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2283791
Incident:	Hit Shooting
Incident Date:	March 1, 2011
Unit:	Palmdale Station/FOR I
Suspect:	[redacted] M/17
Involved Employees:	Sergeant Victor Hess Deputy David Roach Deputy Rick Manes
EFRC Date:	June 28, 2012

The Executive Force Review Committee consisting of Commander Michael Rothans, Commander Anthony La Berge, and Commander David Fender met and reviewed the above case.

FINDINGS:
The Committee determined the force used by Sergeant Hess, Deputy Roach, and Deputy Manes was objectively reasonable and in compliance with Department Policy. The Committee also determined the tactics used were within the Department's training standards.

RECOMMENDATIONS:
The Committee recommended that Sergeant Hess, Deputy Roach, and Deputy Manes attend eight hours of Tactics and Survival Training, class 2A. Additionally, the Committee recommended the unit commander, Captain Bobby D. Denham, conduct a unit wide briefing regarding the unique circumstances of this incident.

MJR:JER:jer

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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

July 5, 2011

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

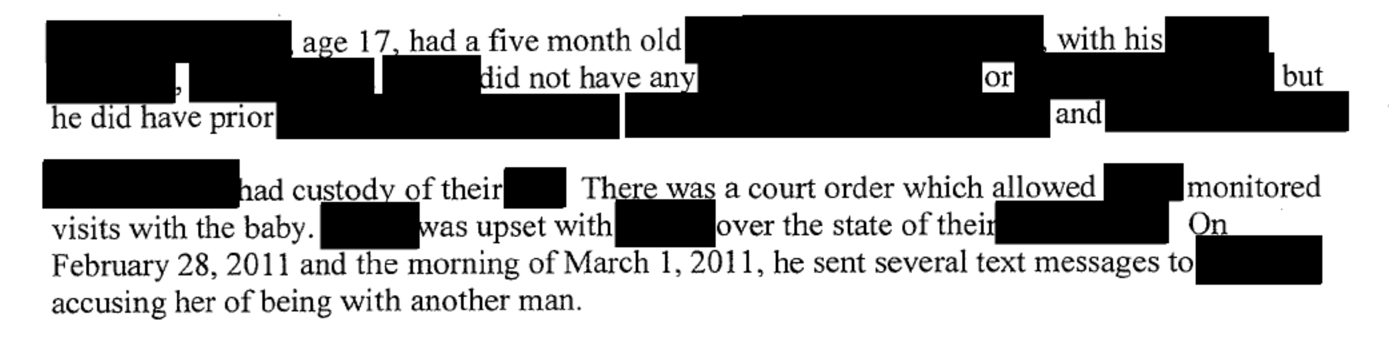
Re: J.S.I.D. File # 11-0150
L.A.S.D. File # 011-03070-2614-011

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 1, 2011, fatal shooting of [redacted] by Los Angeles County Sheriff's Deputy David Roach, Sergeant Victor Hess, and Detective Rick Manes. It is our conclusion that they each acted in lawful self-defense and defense of others.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by members of the LASD Homicide Bureau. The District Attorney's Command Center was notified of the shooting on May 1, 2011, at approximately 4:12 p.m. The District Attorney Response Team, comprised of Deputy District Attorney Susan Schwartz and District Attorney Senior Investigator David Maupin, responded and was given a briefing and walk-through of the scene. The voluntary statements of Detective Manes, Sergeant Hess, and Deputy Roach were considered as part of this analysis.

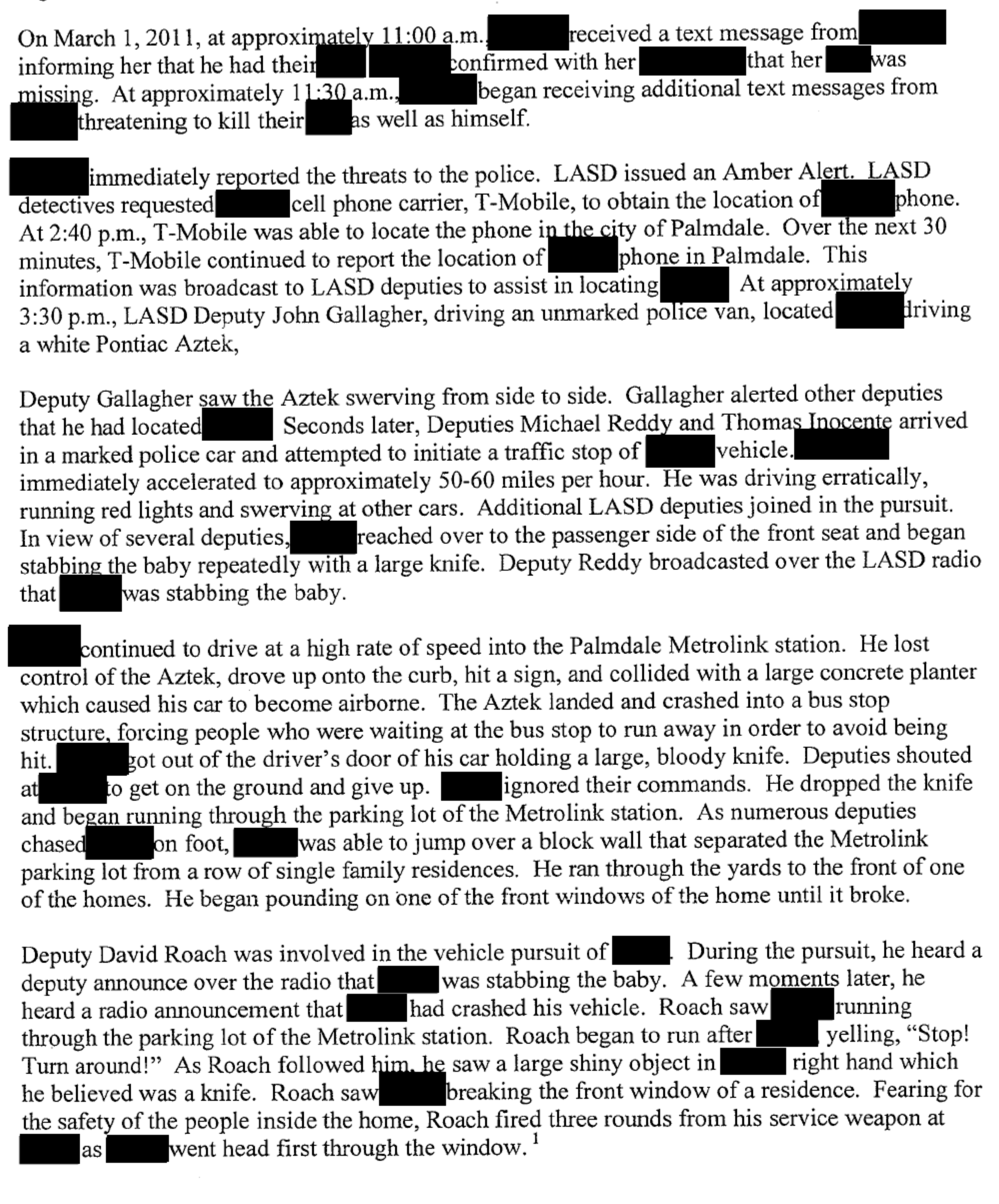
FACTUAL ANALYSIS



[redacted] age 17, had a five month old [redacted], with his [redacted], [redacted] did not have any [redacted] or [redacted] but he did have prior [redacted] and [redacted]

[redacted] had custody of their [redacted] There was a court order which allowed [redacted] monitored visits with the baby. [redacted] was upset with [redacted] over the state of their [redacted] On February 28, 2011 and the morning of March 1, 2011, he sent several text messages to [redacted] accusing her of being with another man.

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On March 1, 2011, at approximately 11:00 a.m., [redacted] received a text message from [redacted] informing her that he had their [redacted] [redacted] confirmed with her [redacted] that her [redacted] was missing. At approximately 11:30 a.m., [redacted] began receiving additional text messages from [redacted] threatening to kill their [redacted] as well as himself.

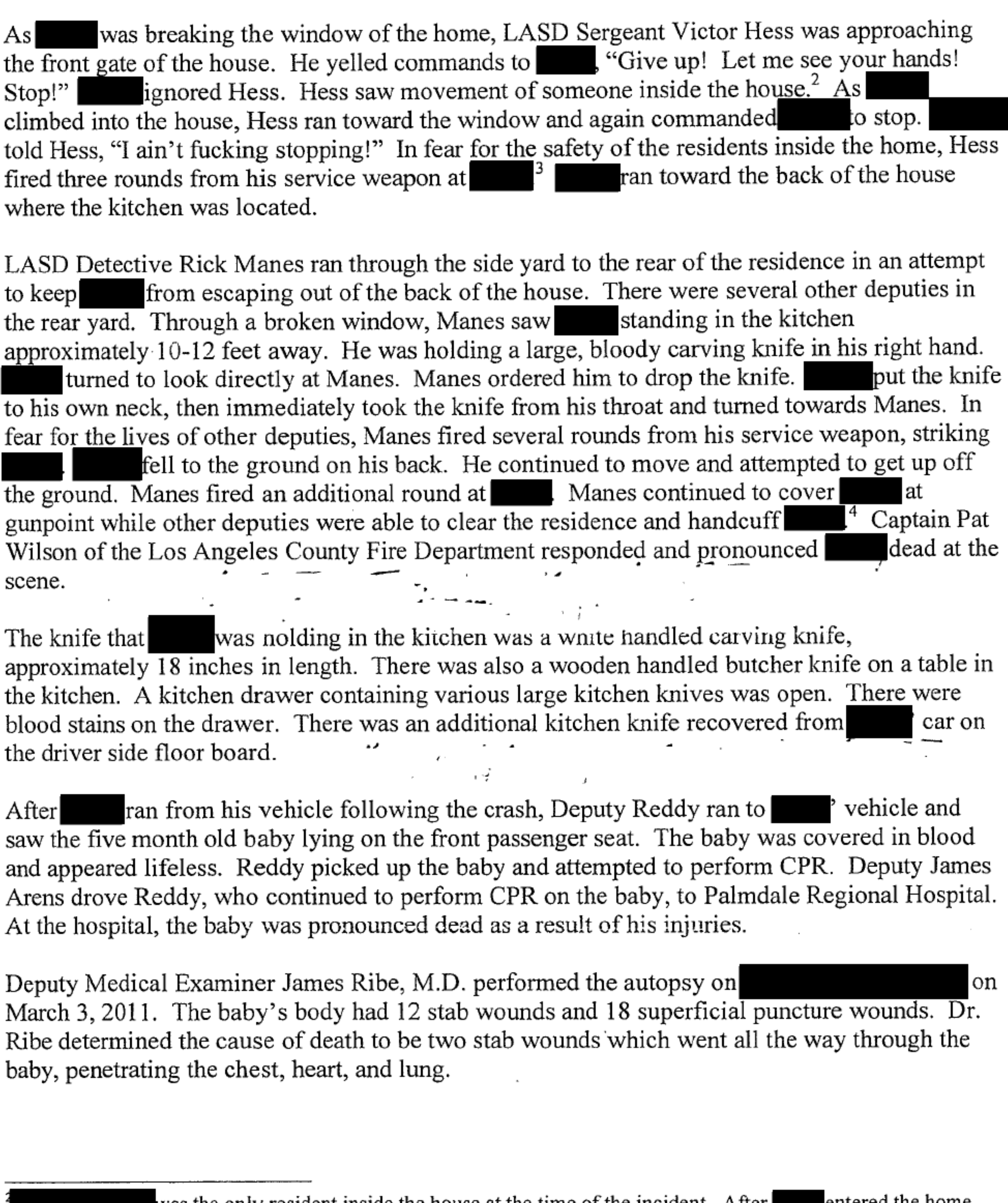
[redacted] immediately reported the threats to the police. LASD issued an Amber Alert. LASD detectives requested [redacted] cell phone carrier, T-Mobile, to obtain the location of [redacted] phone. At 2:40 p.m., T-Mobile was able to locate the phone in the city of Palmdale. Over the next 30 minutes, T-Mobile continued to report the location of [redacted] phone in Palmdale. This information was broadcast to LASD deputies to assist in locating [redacted] At approximately 3:30 p.m., LASD Deputy John Gallagher, driving an unmarked police van, located [redacted] driving a white Pontiac Aztek,

Deputy Gallagher saw the Aztek swerving from side to side. Gallagher alerted other deputies that he had located [redacted] Seconds later, Deputies Michael Reddy and Thomas Inocente arrived in a marked police car and attempted to initiate a traffic stop of [redacted] vehicle. [redacted] immediately accelerated to approximately 50-60 miles per hour. He was driving erratically, running red lights and swerving at other cars. Additional LASD deputies joined in the pursuit. In view of several deputies, [redacted] reached over to the passenger side of the front seat and began stabbing the baby repeatedly with a large knife. Deputy Reddy broadcasted over the LASD radio that [redacted] was stabbing the baby.

[redacted] continued to drive at a high rate of speed into the Palmdale Metrolink station. He lost control of the Aztek, drove up onto the curb, hit a sign, and collided with a large concrete planter which caused his car to become airborne. The Aztek landed and crashed into a bus stop structure, forcing people who were waiting at the bus stop to run away in order to avoid being hit. [redacted] got out of the driver's door of his car holding a large, bloody knife. Deputies shouted at [redacted] to get on the ground and give up. [redacted] ignored their commands. He dropped the knife and began running through the parking lot of the Metrolink station. As numerous deputies chased [redacted] on foot, [redacted] was able to jump over a block wall that separated the Metrolink parking lot from a row of single family residences. He ran through the yards to the front of one of the homes. He began pounding on one of the front windows of the home until it broke.

Deputy David Roach was involved in the vehicle pursuit of [redacted]. During the pursuit, he heard a deputy announce over the radio that [redacted] was stabbing the baby. A few moments later, he heard a radio announcement that [redacted] had crashed his vehicle. Roach saw [redacted] running through the parking lot of the Metrolink station. Roach began to run after [redacted] yelling, "Stop! Turn around!" As Roach followed him, he saw a large shiny object in [redacted] right hand which he believed was a knife. Roach saw [redacted] breaking the front window of a residence. Fearing for the safety of the people inside the home, Roach fired three rounds from his service weapon at [redacted] as [redacted] went head first through the window. [1]

[1] Deputy Roach was armed with an LASD issued 9mm Berretta pistol.



As [redacted] was breaking the window of the home, LASD Sergeant Victor Hess was approaching the front gate of the house. He yelled commands to [redacted], "Give up! Let me see your hands! Stop!" [redacted] ignored Hess. Hess saw movement of someone inside the house.[2] As [redacted] climbed into the house, Hess ran toward the window and again commanded [redacted] to stop. [redacted] told Hess, "I ain't fucking stopping!" In fear for the safety of the residents inside the home, Hess fired three rounds from his service weapon at [redacted].[3] [redacted] ran toward the back of the house where the kitchen was located.

LASD Detective Rick Manes ran through the side yard to the rear of the residence in an attempt to keep [redacted] from escaping out of the back of the house. There were several other deputies in the rear yard. Through a broken window, Manes saw [redacted] standing in the kitchen approximately 10-12 feet away. He was holding a large, bloody carving knife in his right hand. [redacted] turned to look directly at Manes. Manes ordered him to drop the knife. [redacted] put the knife to his own neck, then immediately took the knife from his throat and turned towards Manes. In fear for the lives of other deputies, Manes fired several rounds from his service weapon, striking [redacted]. [redacted] fell to the ground on his back. He continued to move and attempted to get up off the ground. Manes fired an additional round at [redacted]. Manes continued to cover [redacted] at gunpoint while other deputies were able to clear the residence and handcuff [redacted].[4] Captain Pat Wilson of the Los Angeles County Fire Department responded and pronounced [redacted] dead at the scene.

The knife that [redacted] was holding in the kitchen was a white handled carving knife, approximately 18 inches in length. There was also a wooden handled butcher knife on a table in the kitchen. A kitchen drawer containing various large kitchen knives was open. There were blood stains on the drawer. There was an additional kitchen knife recovered from [redacted] car on the driver side floor board.

After [redacted] ran from his vehicle following the crash, Deputy Reddy ran to [redacted]' vehicle and saw the five month old baby lying on the front passenger seat. The baby was covered in blood and appeared lifeless. Reddy picked up the baby and attempted to perform CPR. Deputy James Arens drove Reddy, who continued to perform CPR on the baby, to Palmdale Regional Hospital. At the hospital, the baby was pronounced dead as a result of his injuries.

Deputy Medical Examiner James Ribe, M.D. performed the autopsy on [redacted] on March 3, 2011. The baby's body had 12 stab wounds and 18 superficial puncture wounds. Dr. Ribe determined the cause of death to be two stab wounds which went all the way through the baby, penetrating the chest, heart, and lung.

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[2] [redacted] was the only resident inside the house at the time of the incident. After [redacted] entered the home through the front window, [redacted] exited through another window with the assistance of LASD deputies.
[3] Sergeant Hess was armed with an LASD issued 9mm Berretta pistol.
[4] Detective Manes was armed with an LASD issued 9mm Berretta pistol. Subsequent examination of his service weapon showed that Manes fired a total of 9 rounds at [redacted].

Deputy Medical Examiner Eugene Carpenter, Jr., M.D. performed the autopsy on [redacted] on March 6, 2011. [redacted] had 11 gunshot wounds to his head, body and leg. [redacted] also had superficial sharp force injuries to his neck which are consistent with hesitation marks and a shallow stab wound to his left upper chest. He had signs of both sharp force and blunt force trauma on his arms, body and legs. Blood samples taken from [redacted] during the autopsy were analyzed and determined to contain marijuana. Dr. Carpenter determined the cause of death to be multiple gunshot wounds.

CONCLUSION

California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. People v Mercer, (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. California Jury Instructions-CALCRIM 505.

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v Collins, (1961) 189 Cal.App.2d 575.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight....The calculus or reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. Graham v. Conner, (1989) 490 U.S. 386, 396-397.

California law also permits the use of deadly force by police officers when necessary to affect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. People v. Ceballos (1974) 12 Cal.3d 470. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. Ceballos, supra, 12 Cal.3d at 479. The following crimes have been deemed forcible and atrocious as a matter of law: murder, mayhem, rape, and robbery. Id. at 478.

The evidence examined in this investigation shows that [redacted] committed a forcible and atrocious crime when he murdered his [redacted] as witnessed by LASD deputies. When LASD deputies attempted to apprehend him, [redacted] drove erratically and crashed his car in a crowded pedestrian zone. As he was fleeing on foot, he broke into a home where a resident was present. He did not comply with deputy commands and told the deputies that he was not going to stop. The

deputies, in fear for the lives of others and in attempt to arrest a dangerous felon, responded with deadly force.

We conclude that Deputy David Roach, Sergeant Victor Hess and Detective Rick Manes acted lawfully in defense of others and in attempt to arrest a dangerous felon when they used deadly force against [redacted] We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

RENEE CHANG
Deputy District Attorney
(213)974-3888

c: Deputy David Roach, #[redacted]
Sergeant Victor Hess, #[redacted]
Detective Rick Manes, #[redacted]